

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

-----X
TYLER WOOD,

Plaintiff,

-against-

MEDTRONIC, INC.,

Defendant.
-----X

Civil Action No. 14-cv-6298 (CJS)

LOCAL RULE 81 INDEX

Index of papers filed in Supreme Court, Monroe County:

Description

Filing Date

Complaint (Exhibit A)

April 25, 2014.

Dated: June 3, 2014

Respectfully submitted,

PEPPER HAMILTON, LLP

By: /s/ Adam B. Michaels

Adam B. Michaels

The New York Times Building

620 Eighth Avenue

New York, New York 10018

(212) 808-2700

Attorneys for Defendant Medtronic, Inc.

EXHIBIT A

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STATE OF NEW YORK
SUPREME COURT

COUNTY OF MONROE

TYLER WOOD,

Plaintiff,

vs.

MEDTRONIC, INC.,

Defendant.

2014 APR 25 PM 1:40
MONROE COUNTY CLERK
COMPLAIN
Index No:

Plaintiff, Tyler Wood, by his attorney, Thomas J. Rzepka, for his complaint against the Defendant alleges as follows:

1. That, at all relevant times herein, the Plaintiff was a resident of the County of Monroe and State of New York and was an infant at the time of the incident involved herein having a date of birth of April 26, 1993,

2. That, upon information and belief, at all relevant times herein, the Defendant Medtronic, Inc. was a Minnesota corporation authorized to do business in the State of New York and was doing business in the State of New York.

3. That, upon information and belief, at all relevant times herein, the Defendant designed, manufactured, sold and distributed a certain infuse bone graft (bone graft).

4. That, upon information and belief, the bone graft was designed and approved to be used during surgery to stimulate bone growth in spinal procedures but not in the cervical spine.

5. That, upon information and belief, the bone graft was to be used only for those specific applications but instead the Defendant encouraged the medical industry to use the bone graft off-label in cervical spine procedures.

6. That on or about March 14, 2006, the Plaintiff underwent a cervical spine procedure and the bone graft was used

7. That the use of the bone graft has caused injuries to the Plaintiff which are severe

and permanent.

8. That the bone graft was defectively designed and manufactured and the Defendants failed to warn the Plaintiff and others of the dangers associated with using the bone graft especially off-label in cervical spine procedures.

9. That the Defendant's negligence, strict products liability, breach of express and implied warranties and fraudulent misrepresentation of the bone graft caused the injuries to the Plaintiff.


10. That as a result of the negligent and other culpable acts of the Defendant, the Plaintiff has been damaged in an amount which exceeds the jurisdictional limit of all lower courts.

11. That the injuries to the Plaintiff were caused solely and wholly by the acts of the Defendant without any culpability on behalf of the Plaintiff.

WHEREFORE, Plaintiff demands judgment against the Defendant in an amount to be determined along with the costs and disbursements of this action and for such other and further relief as to the Court seems just and proper.

Dated: Rochester, New York

April 24, 2014



Thomas J. Rzepka
Attorney for Plaintiff
2300 W. Ridge Road, Suite 200
Rochester, New York 14626
(585) 458-2800, Ext 320

2014 APR 25 PM 1:40
MONROE COUNTY CLERK

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CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2014 a copy of the Local Rule 81 Index was
served upon the following by U.S. Mail, first class, postage prepaid:

Thomas J. Rzepka
2300 W. Ridge Road, Suite 200
Rochester, NY 14626

Dated: June 3, 2014

PEPPER HAMILTON, LLP

By: /s/ Adam B. Michaels
Adam B. Michaels
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